

## REMARKS

### I. Status of Claims

Claims 1–30 are currently present in the application. Claims 4, 5, 8, 12–15, 19, 20, 23, and 27–30 stand withdrawn from the application as allegedly being directed toward non-elected subject matter. Thus, claims 1–3, 6, 7, 9–11, 16–18, 21, 22, and 24–26 are currently pending on the merits. Claims 1, 4, 7, 12, 13, 16, 19, 22, 27, and 28 have been amended herein. No new claims have been added and no claims have been canceled herein.

### II. Objection to the Specification

The Office has objected to the specification as allegedly failing to provide proper antecedent basis for the recitation “fluid drawn into and retained in the indicator pathway,” which appears in claims 1 and 16, and thus has requested appropriate correction of the specification. See Office Action at 2. As shown above, Applicant has amended paragraph [027] of the specification to recite, *inter alia*, “The amount of fluid drawn into and retained in the indicator pathway is indicative of the amount of fluid drawn into the feeding pathway.” As such, Applicant submits that the Office’s objection to the specification has been rendered moot, and respectfully requests that it be withdrawn.

### III. Rejections Under 35 U.S.C. § 112

The Office has rejected claims 1 and 16, and consequently all dependent claims, under 35 U.S.C. § 112, alleging that the specification does not contain sufficient support for the recitation “at least one indicator pathway having a different volume from the feeding pathway,” which appears in claims 1 and 16. See Office Action at 2-3. While

Applicant does not necessarily agree with the Office's position, Applicant has amended claims 1 and 16 to recite "at least one indicator pathway having a different ~~volume~~  
length from the feeding pathway," which is fully supported by at least paragraph [030] of the original specification. As such, Applicant submits that the Office's rejection of claims 1 and 16 under 35 U.S.C. § 112 has been rendered moot, and respectfully requests that it be withdrawn.

#### **IV. Rejections Under 35 U.S.C. § 101**

The Office has rejected claims 1 and 16 under 35 U.S.C. § 101 as allegedly improperly including in the claim recitations a part of the body ("the baby's mouth"), stating that "changing the phrasing such that the claim language recites 'a second opening adapted to be in communication with the baby's mouth' would overcome the 101 rejection." Office Action at 3-4. As shown above, Applicant has amended claims 1 and 16, as requested by the Office, and thus submits that the Office's rejection of claims 1 and 16 under 35 U.S.C. § 101 has been rendered moot, and respectfully requests that it be withdrawn. Applicant has additionally made similar amendments to dependent claims 4, 12, 19, and 27 and requests that they be entered without objection.

#### **V. Amendment to Claim 16**

Applicant has additionally amended claim 16 to recite, *inter alia*, that the apparatus is "configured such that the amount of fluid provided to the baby's mouth through the feeding pathway is proportional to the amount of fluid drawn into and retained in the indicator pathway," which is fully supported by the original specification by at least paragraphs [027], [028], [032], [038], and [058] - [081]. As such, no new

matter has been added, and Applicant respectfully requests that the amendment be entered without objection.

## **VI. Rejections Based on Smaczny**

The Office has rejected claims 16 and 18 under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 3,260,462 to Smaczny (“Smaczny”) and claim 17, 22, 24, 25, and 26 under 35 U.S.C. § 103(a) as allegedly obvious over Smaczny or Smaczny in view of U.S. Patent No. to 6,588,613 to Pechenik et al. (“Pechenik”), U.S. Patent No. 5,222,940 to Wilk (“Wilk”), U.S. Patent No. 5,827,191 to Rosenfeld (“Rosenfeld”), or U.S. Patent Number 6,109,100 to Buckley et al. (“Buckley”). See Office Action at 4-9.

As amended herein, claim 16 recites, *inter alia*, an apparatus “configured such that the amount of fluid provided to the baby’s mouth through the feeding pathway is proportional to the amount of fluid drawn into and retained in the indicator pathway.” Smaczny does not teach or render obvious a device configured in such a way.

Similarly, nothing in any of the Pechenik, Wilk, Rosenfeld, or Buckley, taken alone or in any combination with Smaczny, would have rendered obvious an apparatus “configured such that the amount of fluid provided to the baby’s mouth through the feeding pathway is proportional to the amount of fluid drawn into and retained in the indicator pathway.” Thus, Applicant respectfully requests that the rejections of claims 16, 17, 18, 22, 24, 25, and 26 under 35 U.S.C. §§ 102(b) or 103(a) be withdrawn.

## **VII. Conclusion**

For at least the above-outlined reasons, pending claims 1–3, 6, 7, 9–11, 16–18, 21, 22, and 24–26 should be allowable. In addition, each of withdrawn claims 4, 5, 8, 12–15, 19, 20, 23, and 27–30 ultimately depend from allowable independent claim 1 or

16. For at least that reason, claims 4, 5, 8, 12–15, 19, 20, 23, and 27–30 should also be allowable. Therefore, Applicant also respectfully requests rejoinder and allowance of all claims 1–30.

If the Examiner believes that a telephone conversation might advance prosecution of this application, the Examiner is cordially invited to call Applicant's undersigned attorney at (404) 653-6430.

Applicant respectfully submits that the Office Action contains a number of assertions concerning the related art and the claims. Regardless of whether those assertions are addressed specifically herein, Applicant respectfully declines to automatically subscribe to them.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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